File No. 2 86

1892.

Collection No.

Pol
3/2/92 Mysore Residency

Pros. / Serial Nos. 1 – 23

Subject.

Provision of punishment of imprisonment for default in payment of fines imposed under the Municipal Regulations - Byelaws of the station. Byelaw dealing with the beggar nuisance declared ultra vires

Previous References..	Later References.
7 - 64/85	

MGIPC—FP—52DCFMis.—(1783)—27-5-25—39,000.

No. 2167 & Ecc

Office of the Municipal Commission

Civil and Military Station,

Bangalore, 10 Dec 1881.

From

The President,

Municipal Commission

Civil and Military Station

Bangalore,

To

The Assistant to the Resident in Mysore.

Bangalore.

Sir,

I have the honor to enclose an Extract from the Proceedings of the Municipal Commission, Civil and Military Station of Bangalore dated 28 ultimo para 16 relating to the proposed amendment of the penal clause of section 57 Municipal Bye-laws together with the Correspondence from the District Superintendent of Police on the subject in original to be obligingly returned, and to request you will be good as to obtain the Resident's sanction to the alteration of the penalty from 4 days simple to one month (with or without hard labor) as recommended.

I have the honor to be

Sir

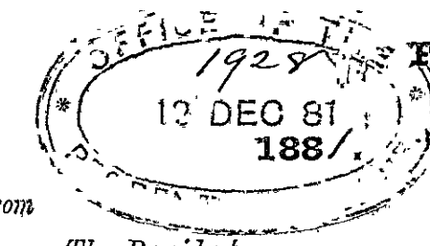
Your most obedient Servant.

Secretary

Encl

Proceedings Commissioner
Amstn Bangalore.

In 104



Form No. 73.

From

The President,
Municipal Commission,
Civil and Military Station,
Bangalore.

To

The Assistant to the Resident in Mysore,
Bangalore.

Dated.
Despatched. } 10 Dec 1881
Received.

Enclosures No. 4

General No. 2467

Ab.

Subject Correspondence and explicit sanction for alteration of Lee: 5th Municipal Byelaws in the respective Clause.

What maximum amount of penalty is to be Regulations admissible for breach of the byelaws.

J.M. 19.12.

Rect. 20.12.81.

Norunyo Subd
dtd 23/12/81

Extract from the Proceedings of the Municipal Commissioners Civil and Military Station of Barrackpore 28th November 1881.

Proposed amendment of section 57 Municipal Bye Laws.

16 Read Docket No. $\frac{451}{186}$ 0715 November 1881 from the District Superintendent of Police suggesting an amendment in the penal clause of section 57 Municipal Bye Laws:

Resolved - That Government be moved to increase the penalty from 4 days simple to one month (with or without hard labor) as obtains in Calcutta &c as the present penalty does not act as a check.

True Extract

Secretary

Superintendent Municipal
& Assistant of Barrackpore
10.12.81

General Serial No. 28.)

1881.

From The Distt Supdt of Police
C & M.S. Bangalore

To The President-Mc Comm
C & M.S. Bangalore

Dated 15th } November/81.
Despatched }
Received

Enclosures No.

General No. 457 } 1881
No. 133

In drawing attention to Section 57 page No 35 of the Bye-laws, requests, that the proposition, — "to have the penalty attached to Bye-law altered," be brought forward at the next Meeting of the Board

The

Item before meeting
noted

President 2nd Comm
C & M.S. Bangalore

The undersigned proposes, for Consideration at the meeting, the essential desirability of increasing the punishment and making Offence punishable as in Bombay Calcutta & Madras viz/ imprisonment of either description up to one month; the present penalty 4 days simple, is a Farce.

The Beggar question or rather nuisance is an important one which calls for Considerable attention and active measures by the Municipality with the determination of freeing the station of the many objectionable objects to be seen about the station.

Edw. Hewetson
Dist. Supto of Police
& Mr. Bangalore

Dy No. 2049
M.C.
21 NOV 81
21/11/81

(General-Serial No. 28.)

1881.

From The Distt. Supdt. of Police
C & M. S. Bangalore

To The President-Munl. C.
C & M. S. Bangalore

Dated 18th
Despatched } November/81
Received

Enclosures No. 1

General No. 462 } 1881.
No. 139

In Continuation of this Office No. 457/133 dated 15th instant, has the honor to forward a copy of Section LXX of the Calcutta Police Act; the provisions in the Madras Town Act, are similar

G. W. Stewart
Distt. Supdt. of Police
C & M. S. Bangalore

Laid before Board
21.11

The Secretary to the Commissioner
Bangalore
21.11.81

Extract from Calcutta Police Act.

× × × ×

LXX. Whoever, in any public road, street, thoroughfare, or place, begs or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment, or deformity, with the object of exciting charity, or of obtaining alms; or whoever seeks for or obtains alms by means of any false statement or pretence, shall be liable, on Summary Conviction before a Magistrate, to imprisonment, with or without hard labor, for any term not exceeding one month.

Beggar

× × × ×

True Copy.

Geo. H. Watson

Distt. Supt. of Police

18/11/81. & M. S. Bangalore

1882 2

From

~~*The Secretary to the Chief Commissioner of Mysore.*~~

To The President Mil. Com. C & In Station of Bangalore

Dated 4 Jany 1882

Despatched 5th 1 1882

Received

Enclosures No.

General No. 2311

No. 841.

His letter No. 2467 d. 10th December 1881, submitting an extract from the Proceedings of the Mil. Comsn &c. relating to the proposed amendment of the penal clause of Sec 57 of the Mil. Regulations, and soliciting Presidt's sanction to the alteration of the penalty from 4 days simple imprisonment to one months imprisonment with or without hard labor.

Has the honor, with reference to the above, to request—

the President to report under what authority the present bye law (57) exists or the proposed bye law would be framed, seeing that Sec 225 of the Municipal Regulations only permits fines as a penalty for infringements of bye laws.

M.P.

Asstt to the President

3

No. 2639 Cen. M. No: 347 file

Office of the Municipal Commission

Civil and Military Station,

Bangalore, 7 January 1882

From

The President,

Municipal Commission

Civil and Military Station

Bangalore,

To

The Assistant to the Resident in Mysore.

Bangalore.

Sir,

I have the honor to acknowledge the receipt of your letter no: 2311/641 of 4th instant, and in reply to forward herewith in original to be obligingly returned the file of Correspondence on the records of this office relating to the introduction of Bye-law no: 108 (and 57 in the revised copy of Municipal Bye-Laws) from which it will be seen that the penalty of imprisonment was not inserted in the original Draft Copy of Bye-Laws, but in para 7 of the Proceedings of the Municipal Commission dated 10 October 1871, Copy appended, and by which the Bye-Law was adopted subject to Chief Commissioner's approval, 4 days simple imprisonment was inserted in the Resolution for the reason that it was considered by the Commissioners impossible to enforce the penalty of fines on Vagrants found begging. The Bye-Law in question was confirmed by the Chief Commissioner in letter no: 4550 dated 18 October 1871 from the Secretary D. P. W. and published in the Mysore Gazette of 21 October 1871 no: 3 Vol: XII page 63 beyond which I regret to add

M104

Form No. 75.

2096

1882.

PRESIDENT IN T

I am unable to find any further Correspondence on the records of this office authorizing the insertion of the penalty of imprisonment

I have the honor to be
Sir,
Your most obedient Servant

Secretary.
Municipal Commission
Civil & Military Station
Bangalore.

From

The President,
Municipal Commission,
Civil and Military Station,
Bangalore.

To

The Assistant to the Resident in Mysore,
Bangalore.

Dated
Despatched. } 6 January 1882
Received.

Enclosures No. 1 & M no 82 file

General No. 2659
No.

17-82.

Forwards file of Correspondence on the Subject of introduction of Bye-Laws No: 57.

The Bye law as sent to G.I. by Presidents 1394 Oct 17 1871 and as sanctioned by Govt's 4550 of 18 Oct 71 does not contain the provision of imprisonment. See the gazette following 971 as to how it was published — As since enforced it appears to be illegal & if the Commrs want power to imprison they must submit an amendment of the Regulations for submission to the

Mysore Municipal Laws Regs. 16-1-82.

Extract from the Proceedings of the Municipal Commission of 10 October 1871.

"

Byr. Law proposed for prohibiting vagrant beggars importuning for alms in the Streets Roads, or houses of the Cantonment.

7. Read. Proposed Byr. Law prohibiting vagrant beggars other than religious mendicants importuning for alms in the Streets, Roads, or houses of the Cantonment.

The following Byr. Law is proposed to be added to those already in force in the Cantonment of Bangalore

No 108. No vagrant beggar is allowed to importune for alms, or to beg of the public in the Streets, Roads, or thoroughfares of the Cantonment and the Police are authorised to take into Custody for breach of this Municipal Byr-Law any vagrant beggars they may find or shall be Complained of to them as importuning for alms or begging of the public on the Roads, Streets or thoroughfares at Carriages or at houses.

This Byr-Law will not interfere with the religious class of mendicants who are supported and encouraged by natives of the different Castes to come to their houses

daily

daily for food and who are in no way a nuisance.

A breach of the above Bye-Law will subject the party so offending on Conviction before a Magistrate to simple imprisonment for a period not exceeding four days.

Resolution – Approved and resolved that necessary Sanction be applied for.

1807 I. N. Oak
Vice President Comm
Bangalore Cantonment.

True Extract
[illegible]
Vice President Comm
Cmst Bangalore.
6. 1. 82.

No 2408
880

Office of the Resident in Mysore

Bangalore 17th January 1882.

To

The President, Municipal Comm^n
Civil & Military Station
of Bangalore

Sir,

With reference to your letter
No 2639 dated 6th instant,
reporting the circumstances
under which breaches of
Bye law No 57 were made
punishable with imprisonment,
I have the honor to state that
the penalty of imprisonment
now enforced is illegal,
being opposed to the provision
of Rule 225 of the Municipal
Regulations. I have therefore
the honor to state that if the
Municipal Board wish that
imprisonment should be
awarded for breach of
that Bye law, an amendment
of the Regulations should
be submitted for

transmission to the Government of India for approval.

2. The original enclosures of your letter are herewith returned.

Yours very truly,

[illegible]

Asst to the President

[illegible]
16.1.82

11:104

1881

1830

To
The President
Board of Commrs
of the Station

Dated 17th January
Despd 18th — do

Encl — W. Md Regiment

No 2408
880

draft for approval

Stating that the penalty of imprisonment for breach of Municipal bye-law No 5 is illegal and requesting the submission of an amendment of the Regulations if the Board wish that imprisonment should be awarded for breach of that bye-law.

5

No. 508 &c

Office of the Municipal Commission

Civil and Military Station,

Bangalore, 23rd February 1882.

From

The President,

Municipal Commission

Civil and Military Station

Bangalore,

To

The Assistant to the Resident in Mysore.

Bangalore.

Sir,

I have the honor to acknowledge the receipt of your letter No. 244 &c 17 Instant observing that the penalty of imprisonment recommended for a breach of the provisions of Section 57 Municipal Bye-laws is illegal &c, and in reply I beg to enclose an Extract from the Proceedings of the Municipal Commission of 21st Ultimo para 10, and to request that the Resident will be pleased to make the necessary application to the Government of India to the same provisions as Section 25 Police Rules being made applicable to fines inflicted under Municipal Bye-laws.

I have the honor to be

Sir

Your most obedient Servant

Countersigned

President Municipal Commission

Civil & Military Bangalore.

Ex

9m104

OFFICE OF THE RESIDENT IN MYSORE
2801
FEB 82
188

Form No. 73.

From The President,
Municipal Commission,
Civil and Military Station,
Bangalore.

To
The Assistant to the Resident in Mysore,
Bangalore.

Dated 23-February 1882
Despatched.
Received.

Enclosures No. 1

General No. 5987
Mily. No.

Requests to apply to the Government of India to the suspension of Section 25 of Election Rules being made applicable to fines inflicted under Municipal Bye Laws.

If rules to the same effect were entered in the bye laws can not the Munsy with sanction of President deal without going upto Govt of India? ML 27-2

Mr Channabasavanna Rao
N.S.
28-2-82

Memo submitted
ak
3/3/82.

Extract from the Proceedings of the Municipal Commissioners Civil and Military Station, Bangalore.

Proposed amendment of section 57 Mun.l Bye-laws:

10. Read: Letter No. 2408/880 of 17 January 1882 from the Assistant to the Resident relating to the proposed amendment of the penal clause of section 57 Municipal Bye-laws:

Proposed by Mr Burnier that section 25 of the Rules which runs:—

"The provisions of sections 68 to 70 (both inclusive) of the Indian Penal Code, and of the Code of Criminal Procedure (Act XXV of 1861 or Act X of 1872 Section 307) shall apply to all fines imposed under these Rules, and imprisonments shall be dealt with as if they were fines

be made applicable to fines inflicted under Municipal Bye-laws and that the Resident be requested to apply for the same.

Seconded by Mr. Lee

Resolution — Carried.

True Extract

Secretary

Municipal Commissioners

Civil & Military Station Bangalore.

23.2.82.

M104

Form No. 9.

OFFICE OF THE
2929
M. 1882.

From

The President,
Municipal Commission,
Civil and Military Station,
Bangalore.

To

The Assistant to the Resident in Mysore,
Bangalore.

Dated
Despatched.
Received. } 10 March 1882

Enclosures No.

General No. 1294
No.

No: 3087/924. 2. 82.

Enclosing an Extract from the Proceedings of the Municipal Commissioner dated 21 Idem para 10 and requesting that the Resident may be moved to make the necessary application to the Government of India to the same purport as in section 25 of their Rules being made applicable to fines inflicted under Municipal Bye Laws.

Replied 8/311.5 17.4.82 18.3.

I have the honor to invite his attention to communication noted and to solicit the favor of an Enclosure thereto.

[redacted]

Secretary Municipal Commissioner
Civil & Cantonment Bangalore

The Government of India have been addressed on the subject. The President may be informed of it. 13.3.82.

Replied vide 1673/82

To,
THE SECY TO GOVT.

The Secy to the
Govt of India
Foreign Dept.

Sir,

No. 3035
£350.

I have the honor to request that the sanction of H. E. the V and G. G. in Council may be accorded to the addition after the marginally noted clause to Sec 2 of the Revised Mun. Regulations for the C & M Station of Bangalore forwarded with my letter No. 1943 G183 d. 12th November 1881.

2. The introduction of the clause has been strongly urged by the Mun. Board, and the necessity for it has arisen from the fact that the money pe-

The Provisions of Secs 64 to 70 (both inclusive) of the Indian Penal Code shall apply to all fines imposed under these Regulations and under the bye-laws framed in accordance with them; ~~hereunder~~ and forfeitures shall be dealt with as if they were fines".

(The Secretary to the Govt of India, in the Foreign Department, was requested to move the Governor General in Council to sanction the addition of the above clause to Sec 2 of the Revised Municipal Regulations for the Civil and Military Station of Bangalore.)

nalties provided for
general of the infringe-
ments of the Regula-
tions and for all
infringements of the
byelaws framed in
accordance with
the Regns, are evaded
in cases where the
offenders are without
any or sufficient
property. The ap-
plication, therefore
to all fines imposed
under the Regns
and the byelaws,
of the provisions
of Secs 64 to 70 of the
I. C. Code providing
for imprisonment
in case of default
of payment of fine,

is ~~[illegible]~~ Dean necessary

Thanks

RDL

11/3 President

A.K.
10/3/82

1882 2343

No.

India Foreign

Dy 13th
Despd 14th } March/82

Enc: No.

Draft for appr.

No 3035

£ 350.

Sir Thomas Sc. to Sir C. Grant

Requesting sanction to the addition of certain clause to Sec: 2 of the Revised Municipal Regulations for Civil & Military Station.

In 104

(General Serial No. 30.)

8

1882.

From

~~The Secretary to the Chief Commissioner of Mysore, Department~~

To The President, Municipal Commissioners (civil & Military Station of Bangalore

Dated Bangalore 18th March 1882

Despatched 21st

Received

Enclosures No.

General No. 345

No. 184.

"The provisions of Sections 64 to 70 (both inclusive) of the Indian Penal Code shall apply to all fines imposed under these Regulations and under the Bye-laws framed in accordance with them; and forfeitures shall be dealt with as if they were fines."

Ref. letter No. 3087 dated 23 February last and reminder No. 3296 dated 10th March 1882.

In reply to the above, I am directed to state that application has been made to the Government of India for the addition of the marginally noted clause to Section 27 of the Municipal Regulations, and that their orders will be communicated to the President, when received.

H W

Asst to the Resident

18/3/82

No. 66 J. J.

9

From

The Under Secretary to the
Government of India

To

The Resident in Mysore

Dated Simla, the 29th May 1882.

Foreign Deptt
Judicial

Sir,

I am directed to acknowledge the receipt of your letter No. 3035/G.350 of the 13th March 1882, regarding the addition of a clause to the revised Municipal regulations for the Civil and Military Station of Bangalore.

2. In reply, I am to say that the Governor General in Council does not consider that it will be necessary at present to make the addition to the Municipal regulations proposed by Sir J. Gordon. Act VIII of 1882, amending

amending the Indian Penal Code, will come into effect on the 1st January 1883, and will be found to provide all that is required to meet the difficulty mentioned in the letter under reply. In the short interval which will elapse before this new act comes into force, it would appear that no serious inconvenience is likely to be caused by the Municipal regulations remaining the same as they have been since 1871.

I have the honor to be,

Sir,

Your Most Obedt. Servant,

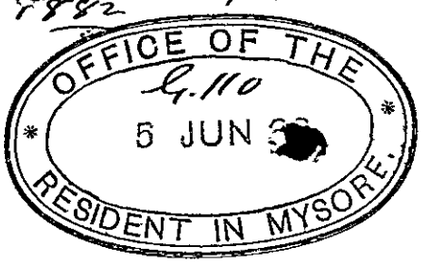
H M Durand

Under Secretary to the Govt.

of India

M/120

1882 /



From

Indian Foreign

Dated 29th May 1882

Received 5th June 1882

No. 86 I.F.

In reply to this office
No. 35 of the 13th March 82
~~stating~~ that the Governor
General in Council
does not considers that
it will be necessary
at present to make the
additions to the
Municipal Regulations

To the same 607/35

Draft

Submitted with Memo
Yule 6/6/82

Reply to Indian drafted
Yule 15.6.82

No 120

No. 602 Encl. No 135
135.

Office of the Resident in Mysore

D/ Bangalore 15th June 1882
Recd — 16th —

To

The Secretary to the
Government of India,
Foreign Department,
Simla.

Sir,

With reference to your letter No. 66 I.J. dated 29th May 1882, communicating the orders of the Government of India on the Lt. Governor Sir James Gordon's recommendation to provide punishment with imprisonment for default of payment of the fines imposed under the Municipal Regulations and under the Bye-laws framed thereunder, I have the honor to point out that the amendment made in section 40 of the Indian Penal Code by Section 1 of Act VIII of 1882 does not include section 67 which prescribes the scale of

imprisonment for non-payment
of fine, when the offence
is punishable with fine only.
Therefore, although by Section
64 of the Penal Code, as now
amended, power is given
to the Court to award
imprisonment "for a
certain term" in default
of payment of fine in
cases of offences against
local laws punishable
with fine only, there is
no section applicable to
offences against local
laws punishable with
fine only, which prescribes
what that term shall be.
I have the honor therefore
to state that the difficulty
pointed out in ~~the~~
Sir James Jordan's letter

No. 3036 / G. 350 dated 13th March last, will not be fully met by the introduction of Act VIII of 1882 into the Civil and Military Station of Bangalore.

I have &c

W. J. Ravenscroft
Offg Resident

15.6.82

No. 7443.

From

The Under Secretary to the
Government of India,

To

The officiating President in Mysore.

Dated, Simla, the 15th September 1882.

Foreign Dept
Judicial.

Sir,

I am directed to acknowledge the receipt of your letter No. 602/135 of the 15th June 1882, regarding the provision of punishment by imprisonment for default in payment of fines imposed under the Municipal Regulations and Byelaws of the Civil and Military station of Bangalore.

2. You observe that the difficulty pointed out in Sir James Gordon's letter No. 3035/G. 350 dated the 13th March last will not be met by the application of Act VIII of 1882 to the Civil and Military Station of Bangalore.

3. In reply, I am to say that the Governor General

General in Council is advised that although Act VIII does not, as you remark, expressly enlarge the meaning of the word "offence" in section 67 of the Indian Penal Code, yet the term would doubtless, looking to the context, be construed in the enlarged sense, because such a construction would be in favour of the prisoner; and further that if it were not so construed, the only result would be that the period of imprisonment which might be awarded under section 64 of the Penal Code as amended would be without limit.

The Governor General in Council is therefore still of opinion that there is no necessity to make the changes advocated by Sir James Gordon.

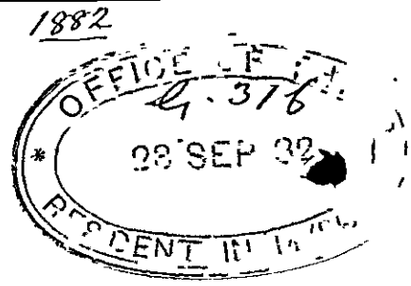
I have the honor to be,
Sir,
Your most obed^t. servant

Thomas Hope Capt.
for Under Secretary to the
Government of India.

WMt

No 120

1882



From

India Foreign

Dated 15 September 1882

Received 23rd. — — ———

No 744 I.

30-9-82

15-31 / 2165

Sir With reference to this office No. 602/135 of the 15 June/82 I am directed to state that there is no necessity to make the changes advocated by Sir James Gordon regarding the provision of punishment by imprisonment for default in payment of fines imposed under the Municipal Regulations and Byelaws of the Cantonment of Bangalore.

———————————

Recd 25th

Please see paras 11—15 of Memo: herewith submitted.

27.9.82

No. 1537
285.

Office of the Resident in Mysore
& Bangalore 30th Sept. 1882

To
The Secretary to the Govt. of India
Foreign Department,
Simla.

Sir,

I have the honor to acknowledge receipt of your letter No. 744 I. dated 15th September 1882, communicating the opinion of the Government of India that Act VIII of 1882 (the Penal Code Amendment Act) will be found to provide imprisonment in default of payment of fine in the case of offences under the Bangalore Municipal Regulations and Bye laws.

2. I have now the honor to request the favor of

For appl. see 464 - 85 - the act in question was applied to the Cochin State 10.8.92

Early orders regarding
the introduction of Act
VIII of 1882 into the Civil
and Military Station
of Bangalore, which
was recommended in
Sir J. B. Ff's
Letter No. 15/9 dated
1st April last.

File No 464/85

I have &c

25/9/82
Offg President

Hle
30/9/82

In 120
A 15

1882.

285.

India, Foreign

Dated 30th September/82
Recd 2nd Octr /82

No 1537 En 2 zones
2205

Vide Y 1/534/87 3A
60

Requesting early orders regarding the introduction of Act ~~XIII~~ of 1882 into the Civil and Military station of Bangalore

In 20

No. 60 No. 1536 Encl: 13
60.

Office of the Resident in Mysore
& Bangalore 30th September 1882
Recd — 2nd October

To The President, Municipal Commrs.,
Civil & Military Station
of Bangalore.

Sir,

With reference to the correspondence ending with my docket No. 3115/1184 dated 18th March 1882, on the subject of applying the provisions of Sections 64 & 70 of the Indian Penal Code (regarding imprisonment in default of payment of fine) to offences under the Municipal Regulations and Bye laws, I am directed by the Offg. Resident to forward herewith copies of the papers noted in the margin, from which it will be seen that the Government of India are of opinion that the introduction of Act VIII of 1882 (the Indian Penal Code Amendment Act) into the Civil and Military Station of Bangalore

1. Letter from the Govt of India, Foreign Deptt, No. 3035/G. 350 d/ 13th March 1882
2. Letter from do — No. 66. J.J dated 29th May 1882
3. Letter to do — No. 602/135 d/ 15th June 1882
4. Letter from do — No. 744 J. dated 16th September 1882

would meet all requirements.
I am to add that application
has been made to the
Government of India for
the introduction of the
Act above named into
the Civil and Military
Station of Bangalore.

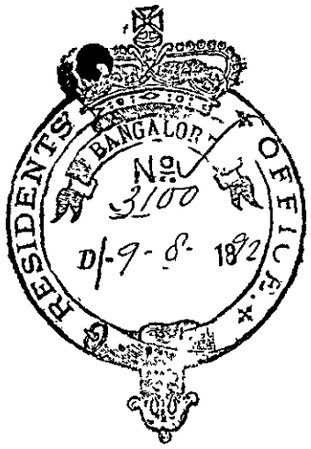
I have &c

H W

Asstt to the Resident

Yelr

28.9.82.



No. 548 14

CIVIL AND MILITARY STATION,
BANGALORE.

Municipal Office, 5 August 1892

From

THE PRESIDENT,
MUNICIPAL COMMISSION,
CIVIL & MILITARY STATION,
BANGALORE.

Orders were communicated so far back as 31st. Sept. 1882. The President may be referred to Dl. No. 13. Draft submd. for approval.
N.S.
11-8-92

To

The Assistant to the Resident in Mysore,
BANGALORE.

A.N.G

Sir,

With reference to the Correspondence ending with your Docket no. 3115/1184, dated 18th March 1882, on the subject of the amendment of the penal clause of Section 57, Civil & Military Station Bangalore Municipal Bye-Laws, as recommended by the District Superintendent of Police, I have the honour to request that you will be so good as to inform me whether any orders have been passed by the Government of India on the reference from your

Office in respect of Amendment
of Section 2 of the Municipal
Regulations of 1871, and if so
that you will furnish me with
a copy for information.

I have the honour to be
Sir
Your most obedient
servant

John Macgregor

President

MD

RESIDENT'S OFFICE.

Serial No. 15

[DRAFT]—For approval.

No. 2726
286·92

Dated 16 August 1892

To The President, Municipal Commissioners,
& ex Station of Bangalore

Sir,

In reply to your letter No.
548 of the 5th August 1892, I am
directed to inform you that the
orders of the Govt of India in
regard to the amendment of
the penal clause of Sec: 57
of the municipal bye-laws
were communicated to you
in major Wylie's letter No.
15 36
60 dated the 30th September
1882.

A·14

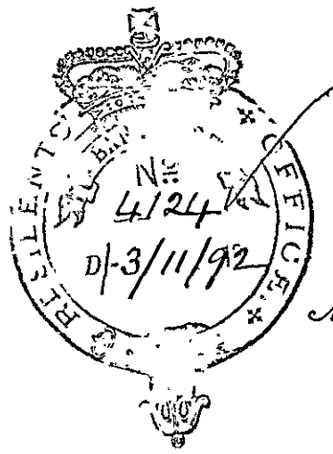
A·13

I have, &c

HD

Asst Cmte Resident

A.S. 11-8-92



No. 946 & 3 Enc 16

CIVIL AND MILITARY STATION,
BANGALORE.

Municipal Office, 31 October 1892.

From

THE PRESIDENT,
MUNICIPAL COMMISSION,
CIVIL & MILITARY STATION,
BANGALORE.

To First
The Assistant to the Resident in Mysore,
BANGALORE.

Sir,

I have the honor to forward Copy of letter No. 375, dated 10 October 1892, from the District Superintendent of Police, together with Copy of a Resolution of the Commissioners No. 12, dated 29 Idem, and of Bye-Law No. 57, duly amended, as resolved by the Commissioners, and to request that you will be so good as to obtain the formal Sanction of the

Resident to admit of its being printed and published, as required by Sections 226 and 227 of the Bangalore Municipal Regulations of 1883.

I have the honor to be

Sir

Your most obed Servant

Thomason

President.

WD

From

The Dy. Superintendent of Police
Civil & Military Station
Bangalore.

To

The President, Mun: Commission
C & M Station, Bangalore.

Dated 8 October 1892.

No. $\frac{375}{24}$ of 1892.

Sir,

I am to refer to your No: 613 of 19 August last, informing that, as the Government of India, in the Correspondence herewith returned as requested in your No: 603, of 16 of that month, declined to sanction the penal clause of imprisonment being added to the Municipal Regulations, you consider it useless to reopen the question.

In reply, I have the honour to observe that it is not necessary to reopen the question, for, under the acts in force in the Civil & Military Station, imprisonment can be awarded in default of payment of fines imposed on offenders under Municipal Regulations, and Bye-Laws made under them. But as the penal

clause

clause of Section 57 of the Municipal Bye-Laws has been incorrectly framed no action under such Section is Sustainable, for the Magistrate cannot award imprisonment as laid down in that Section, as, it is illegal, being inconsistent with Section 224 of the Revised Municipal Regulations, nor can he award fine in the absence of such punishment being mentioned in the Bye-Law. I therefore request the favor of your representing the matter to the Resident at an Early date, with a view of Bye-Law, Section 57, being altered conformably with the provisions of the Municipal Regulations, when Magistrate will have power to award fine, and in default of payment, which will as a matter of course follow in the case of beggars, imprisonment as per scale prescribed in Section 67 of the Indian Penal Code.

I have &c.,

Sd/ E. Newetson.

Dy Supt of Police

Copy

Sd/ [illegible]

President. MD

Abstract of Proceedings of the Municl Commrs for the Cant Station of Bangalore dated 29th October 1892

x x x

12. Read. Letter No: 375, dated 10th October 1892, from the District Superintendent of Police, recommending further reference to the Resident for altering the wording of Bye-Law No: 57, in Conformity with the provisions of the Municipal Regulations.

Proposed by Mr Newtson - That the words "Simple imprisonment for a period of 4 days" in Bye-Law No: 57 be expunged, and that "a fine not exceeding Rs 20" be inserted.

Seconded by Mr Abdul Rahman

Carried nem: con:

(Sd) H. M. S. Magrath
President

Copy

H. M. S. Magrath

President.

Bye-Law no: 57. No vagrant beggar is allowed to importune for alms, or to beg of the public on the Streets, Roads, or thoroughfares of the Cantonment, C.M. Act - [illegible] and the Police are authorized to take into custody for breach of the Municipal Bye-laws any vagrant beggars they may find, or that may be complained of to them as importuning for alms, or begging of the public on the roads, streets, or thoroughfares, at carriages or at houses.

This Bye-Law will not interfere with the religious class of Mendicants who are supported and encouraged by Natives of the different Castes to come to their houses daily for food, and who are in no way a Nuisance.

A breach of the above Bye-Law will Subject the party

So

So offending, on Conviction before a Magistrate, to a fine not exceeding Rupees Twenty.

Thomapath

President.

MD

RESIDENT'S OFFICE.

Serial No.

[DRAFT]—For approval.

No. 3770
286.92

Dated 26th Nov 1892. To The President, Municipal Commission,
for the Station of Bangalore

Sir,

With reference to your letter
No. 946 dated the 31st October 1892,
A-16 I am directed to say that the
Resident has no objection to the
proposed amendment in bye-law
No. 57 being published in the manner
~~under~~
prescribed in Section 226 of the Bangalore
Municipal Regulations of 1883

I have, &c

First Asst to Resident

H.
5-11-92

BANGALORE
No
1413
11-25-3-1897

No. 5079

CIVIL AND MILITARY STATION, BANGALORE,
MUNICIPAL OFFICE.
DATED 23rd March 1897.

FROM

A. M. SLIGHT, ESQUIRE, I. C. S.
PRESIDENT, MUNICIPAL COMMISSION,
C. & M. STATION, BANGALORE.

To

The First Assistant to the
Resident in Mysore
Bangalore.

SIR,

With reference to the correspondence ending with your office letter No. 3770 dated 26 November 286.92 1892 intimating that the Resident had no objection to the proposed amendment in Bye-Law No. 57. being published in the manner prescribed in Section 226 Bangalore Municipal Regulations, I have the honor to inform you that the amended Bye-Law in question was accordingly published in the local papers, but through an oversight in this office, the same was not sent up to the Resident for confirmation. I, therefore, now request that the Resident will be pleased to confirm the amendment as then submitted, to enable me to follow the procedure laid down in Section 227 Bangalore Municipal Regulations.

I have the honor to be
Sir
Your most obedient servant
T. Baker Captain
for President.

RESIDENT'S OFFICE.

Serial No. 9

File No.

[DRAFT].—For approval.

No. 1592

Dated 9th April 1897.

To The President, Municipal Commission,
C/o Station q Bangalore.

Sir,

I am directed to reply to your letter № 5079 dated the 23rd ultimo regarding the proposed amendment in bye-law № 57.

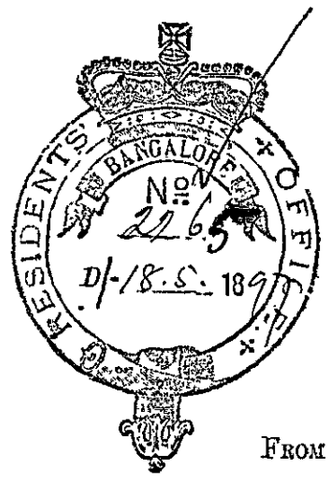
A.18

2. Looking to the long period that has elapsed since the proposed amendment was published under Sec: 226 of the Bangalore Municipal Regulations of 1883, the Resident thinks it would be ~~considers it~~ preferable to have the amendment republished, Sd. be pleased
(and when this is done, the word "Cantonment" occurring in the bye-law ~~being~~ substituted by the words, under the section cited above) "C/o Mi Station",
& the bye-laws resubmitted for his confirmation.

I have, etc,

[illegible]
9-4
First Asst to Resident

A.S.
6.4.97



No. 939 with Six encls.

CIVIL AND MILITARY STATION, BANGALORE,

MUNICIPAL OFFICE.

DATED 15th May 1897.

FROM

A. M. SLIGHT, ESQUIRE, I. C. S.

PRESIDENT, MUNICIPAL COMMISSION,

C. & M. STATION, BANGALORE.

To

The First Assistant to the

Resident in Mysore

B A N G A L O R E .

SIR,

With reference to your letter No.1522 dated 9" Ultimo, I have the honor to inform you that the proposed amendment in Bye-Law No.57 has been re--published as therein suggested, and to request that the Resident will be pleased to confirm the amend--ment to enable me to follow the procedure laid down in section 227 Bangalore Municipal Regulations.

2. Six copies of the Bye-Law, as republished, are herewith forwarded.

I have the honor to be,

Sir,

Your most obedient servant,

T. Baker Captain

for President.

286/92.

Municipal Notice.

:o:

No. 264 DATED 14TH APRIL 1897.

UNDER the provisions of section 226 Bangalore Municipal Regulations of 1882, it is hereby notified for general information that the Municipal Commissioners for the Civil and Military Station of Bangalore, have, in virtue of the powers vested in them in section 224 of the said Regulations, amended Bye-Law No. 57 as follows and that the same will be submitted to the Resident, in due course, for confirmation :—

57. No vagrant beggar is allowed to importune for alms, or to beg of the public on the streets, roads, or thoroughfares of the Civil and Military Station of Bangalore, and the Police are authorized to take into custody for breach of the Municipal Bye-Laws any vagrant beggars they may find, or that may be complained of to them as importuning for alms, or begging of the public on the roads, streets or thoroughfares at carriages, or at houses.

Disallowing vagrant beggars to importune for alms in public thoroughfares &c.

This Bye-Law will not interfere with the religious class of mendicants who are supported and encouraged by natives of the different castes to come to their houses daily for food, and who are in no way a nuisance.

A breach of the above Bye-Law will subject the party, so offending on conviction before a Magistrate, to a fine not exceeding Rupees Twenty.

(Signed) A. M. SLIGHT,
President.

Municipal Notice.

—:o:—

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57. No vagrant beggar is allowed to importune for alms, or to beg of the public on the streets, roads, or thoroughfares of the Civil and Military Station of Bangalore, and the Police are authorized to take into custody for breach of the Municipal Bye-Laws any vagrant beggars they may find, or that may be complained of to them as importuning for alms, or begging of the public on the roads, streets or thoroughfares at carriages, or at houses,

Disallowing vagrant beggars to importune for alms in public thoroughfares &c.

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(Signed) A. M. SLIGHT,
President.

Municipal Notice.

—:o:—

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Disallowing vagrant beggars to importune for alms in public thoroughfares &c.

This Bye-Law will not interfere with the religious class of mendicants who are supported and encouraged by natives of the different castes to come to their houses daily for food, and who are in no way a nuisance.

A breach of the above Bye-Law will subject the party, so offending on conviction before a Magistrate, to a fine not exceeding Rupees Twenty.

(Signed) A. M. SLIGHT,
President.

RESIDENT'S OFFICE.

Serial No.
File No. 24

[DRAFT].—For approval.

No. 2294

Dated 29th May 1897.

To The President, Municipal Commission,
C & M Station of Ismailia

Sir,

With reference to the correspondence
ending with your letter No 939 dated
the 15th instant, I am directed to state
that before confirming the proposed
amendment in bye-law No 57, the
Resident wishes to know how the
provision "or that may be complained
of by them as" in the bye-law will work
be likely to
in practice.
Will it be open to any one to complain
against a person for begging and
will the Police then be allowed to
arrest him merely on this complaint?
If so, this provision may possibly lead
to abuses. In Col: Robertson's opinion

it

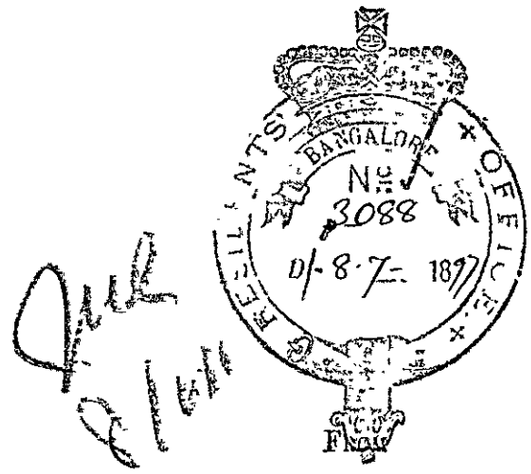
it would be as well to provide
in general terms "any vagrant beggar
who may be found importuning or
begging for alms - - -

I have, etc,

[illegible]
26/V.

First Asst Resident

H.
25.5.97



No. 1774 and 1 Encl.

CIVIL AND MILITARY STATION, BANGALORE,

MUNICIPAL OFFICE.

DATED 6th. July 1897.

A. M. SLIGHT, ESQUIRE, I. C. S.

PRESIDENT, MUNICIPAL COMMISSION,

C. & M. STATION, BANGALORE.

To

The First Assistant to the

Resident in Mysore

B A N G A L O R E .

SIR,

With reference to the correspondence ending with your letter No.2294 dated 28" May 1897,I have the honor to forward herewith an extract of letter No.326 dated 30" June 1897,from the District Super--intendent of Police,to whom your letter was re--ferred,and to state that I agree with him that the form which he proposes,is preferable to that of the Bye-Law as passed by the Commissioners.

2. I would however remark that I am not aware of any provision in the Bangalore Municipal Law 1897,which authorizes the Commission to frame a Bye-Law on the subject under consideration.

I have the honor to be,

Sir,

Your most obedient servant,

President

226
72

cew

Extract of letter No.326 dated 30" June 1897, from the District Superintendent of Police to the President Station Municipality.

Your No.1189 of the 1st.Instant with one enclosure, I would suggest the wording of the Madras City Police Act No. III of 1888 Section 71 Para XXI, the section runs as follows :-

"Whoever in any public street, road, thoroughfare, or places of public resort commits any of the following offences shall be liable on conviction to fine not exceeding fifty rupees, or to imprisonment which may extend to one month".

The part underlined must of course be cut out, unless the Municipal Law or Regulation quite recently sanctioned by the Government of India has a provision for imprisonment. Para XXI runs :-

"Whoever begs or applies for alms, or exposes, or exhibits any sores or wounds, bodily ailment or deformity with the object of exciting charity or of extorting alms"

To justify action on the part of the Police, *i.e.* the arrest of beggars-Police must, I think, find them importuning or begging for alms-the offence must be considered within their view.

"True Extract"

J. Baker, Captain

Secretary to the President.

RESIDENT'S OFFICE.

Serial No. 87

[DRAFT].—For approval.

No. 3312

Dated 11th Aug 1897.

To The President, Municipal Commission,
Colombo Straits of Bonaventure

Sir,

I am directed to acknowledge the receipt of your letter No. 1774 dated the 6th ultimo, regarding an amendment in bye-law No. 57.

S.22

2. In reply, I am to say that as there appears to be no provision in the Bonaventure Municipal Law, 1897, which authorizes the Commission to frame a bye-law on the subject under consideration, the bye-law in question cannot be enforced, and Col: Robertson is therefore unable to confirm the amendment proposed -

I have, etc,

[illegible] 9-8.

First Assistant Resident

A.S.
7-8-97

Memo

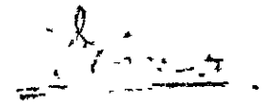
Letter No. 2467 dated 10th Dec 1882 from the President, Municipal Commission, suggesting the amendment of Bye Law No 57

Asst Resident's query on the letter

What maximum amount of penalty do the Regulations admit of for breach of a Bye Law?

With reference to the query quoted in the margin, I beg to state that the Municipal Regulations themselves provide certain punishments for breach of their provisions. These are detailed at pages 37—49 of the book of Bye Laws herewith submitted. These penalties are mostly fines except in one or two instances (Sections 194 & 222 old) in which imprisonment is provided.

2. Rule 225 of the Regulations of 1871 gives the Municipal Board power to make Bye laws



Ask the President to
report under what
authority the present
by-law exists, or the pro-
posed by-law will be
framed seeing that Sec.
225 of the Municipal Regulations
permits fine as a penalty
for infringement of by-laws

24/10

Drafted 4/1/82
AK.

Memo

5 The President Municipal Commissioners having been told from this office that imprisonment for an infringement of bye-law 57 was illegal, he has now submitted a proposition that Sec 25 of the Cattle Rules shall be made applicable to fines inflicted under the bye-laws. The provisions of the said Sec 25 relate to alternative punishment of imprisonment provided by Secs 64 to 70 of the Indian Penal Code

---

6 Section 224 of the Municipal Regulation gives power to Commissioners to make bye-laws under the direction of the Ce-

resident; and from
this a proviso in the same section and that no penalty
same sanction it for any one infringe-
appears that the in- ment of such bye law
tention of the framers shall exceed Rs 20"
of the Regulation
was, that no bodily
punishment should
be inflicted for an
infringement of any
bye law. The effect
of the proposition
now submitted by the
President, is to de-
feat this intention
by securing imprison-
ment as an alterna-
tive punishment, (not
real as a direct pe-
nalty) in case of
a beggar failing to
pay a fine - Hence
it is contrary to the then
proviso (Sec 224), namely
"that no such bye law

shall be repugnant to any law in force".

7. As the proposition of the President is thus repugnant to Sec 224 of the Municipal Regulation (which is a law in force), it is respectfully submitted that the proposition seems to require the sanction of the India Government.

A. Sivaswamy Iyer
3/3/82

8 The simplest way is to ask Govt to introduce a clause at the end of Sec 2 providing that the provisions of Secs 64 & 70 I.P.C & 307 Cr.P.C shall apply to all fines imposed under these Regns or under Bye laws framed in accordance with them

4/3 yes 6/3

MYSORE RESIDENCY. Memorandum

Letter No. 66 J.F. dated 29th May 1882 from the Government of India, Foreign Department.

In our letter No. 3035/G. 350 dated 13th March last, the Government of India were requested to add a clause to Section 2 of the Revised Draft Municipal Regulations, now before them, to the effect that the provisions of Sections 64 to 70 of the Indian Penal Code (relating to imprisonment in default of payment of fine) shall apply to fines imposed under the Regulations and under the Bye-laws framed in accordance with them.

10. The Government of India state in reply that it will be unnecessary to make the addition to the Municipal Regulations proposed, as the Penal Code Amendment Act

(VIII of 1882), which will come into effect on the 1st January 1883, provides for the difficulty mentioned in our letter.

3. On going carefully through the Amendments made by Act VIII of 1882, I find that they do not fully meet our requirements.

Section 1 of the Amendment Act directs the addition of Sections 64, 65, 66 and 71 of the Penal Code to the Second Clause of Section 40 of the Same Code, and by virtue of this Amendment, those Sections (64, 65, 66 and 71) become applicable to offences not only under the Penal Code, but also under any Special or local law,— and therefore to the Municipal Regulations & Bye-laws— Section 64 simply contains a general provision empowering the Court to award imprisonment in default of

payment of fine, in addition to any other imprisonment awarded for the offence.

Section 65 ~~bbb~~ refers purely to offences punishable with imprisonment and fine, and states that in their case the imprisonment to be awarded in default of payment of fine shall not exceed one fourth of the term of imprisonment which is the maximum fixed for the offence.

Section 66 prescribes the description of imprisonment to be awarded for default of payment of fine, and this, it is said, may be simple or rigorous according as the offender is punished with simple or rigorous imprisonment for the offence—

~~It~~ Section 64 & 65 refer, both of them, to offences punishable with imprisonment as well as fine, and no provision is made in the

Penal Code Amendment Act
in regard to offences
under Special or local
laws, punishable with
fine only. Section 67
of the Indian Penal Code,
no doubt, prescribes a
scale of imprisonment
to be awarded in the case
of offences punishable
with fine only, but that
scale ~~does~~ will apply
only to offences under
the Penal Code, as
Section 67 has not been
added to the Second
clause of Section 40
of the Code.

~~The effect of the~~
~~Penal Code Amendment Act~~
~~on the question now before~~
~~the Resident will be this;~~
~~the Magistrates in the Civil~~
~~& Military Station will~~
~~have the power (which they~~
~~have not now) of awarding~~

15. Most of the offences
under the Municipal Regns
are punishable with fine
only, and as the Penal Code
Amendment Act does not,
as shown above, ~~does not~~
provide the extent of
imprisonment to be
awarded in default

of payment of fine in regard
to these offences, I beg respec
=fully to point that the diffi
=culty referred to in the
Office letter No. $\frac{3035}{350}$ of the
13th March 1882, has not
been fully met by the
Penal Code Amendment Act
A further reference to
Government on the subj
would therefore seem
necessary.

16/- May a copy of the
Government of India
letter now under reply
be sent to the President
Municipal Commission
with reference to
previous correspondence
with him?

L.R.
6/6/82

President's orders

Refer to the new Criminal Pro: Code
which came into force on the
same date, and see if whether
the difficulty herein pointed
out is met there.

17/6 In accordance with the
orders of the President,

a copy of the new Code of Criminal Procedure (Act X of 1882) is herewith submitted.

8/5 Section 33 of the Act says that "the Court of any Magistrate may award such term of imprisonment in default of payment of fine as is authorized by law in case of such default".
As the Indian Penal Code (as amended by Act VIII of 1882) does not provide imprisonment in default of payment of fine in the case of offences under Special or local laws punishable with fine only, it cannot be said that such imprisonment in such cases is authorized by law; and therefore Sec. 33 of the new Criminal Procedure Code does not supply the want felt in regard to Municipal Offences.
Sections 386 and 388 of the Code simply lay down

Memo

Refer to the new Crim: Pro. Code which came into force on the same date and see whether the difficulty here pointed out is met there

28 8/6

the procedure for the recovery of fines, and ~~do not make any addition to~~ no such provision as the one we are now in need of is made there.

17. The Criminal Procedure Code does not meet the want now felt, and the Indian Penal Code (as amended by the Act VIII of 1882) does not supply it. It appears therefore to be the intention of the Legislature that in the case of offences under special or local laws punishable with fine only, there should be no imprisonment in default of payment of fine.

As however we require that imprisonment should be provided in such cases, the matter must be represented to the Government of India

and they be requested
to pass an Executive order
legalizing such imprison-
ment in the case of
offences under the
Bangalore Municipal
Regulations.

14.6.82

10

It will be suggested to Govt
of India that
the amendment made in
section 40 of the Indian Penal
Code by Sect 1 Act VIII of
1882 does not include section
67 which is the section
prescribing the scale of imprison
ment for non payment of
fine when the offence is punishable
with fine only - and that
section, though section 64
as amended by
67 gives the Court to award
imprisonment "for a certain term"
in default of
payment of fine in cases of
offences against local laws

punishable with fine only,
there is no section applicable
to cases of libels against
local Courts punishable with
fine only which possibly
might have been dealt
by.

The difficulty however
would not in this form
likely will not be fully
met by the introduction
of Act VIII of 1882 into
the C & N States

Ed 14/6

Drafted
Sd 15/6/82

1/7. The above remarks were communicated to the Government of India in this office letter No 602/135 dated 15th June last.

2. In reply, the Government of India say that although Act VIII of 1882 (the Penal Code Amendment Act) does not expressly enlarge the meaning of the word "offence" in section 67 of the Penal Code

Foreign Dept letter No 744 dated 15th July 82.

so as to include offences under special and local laws, yet the term would doubtless, looking to the context, be construed in the enlarged sense because such a construction would be in favour of the prisoner, and because, if it were not so construed, the result would be that the period of imprisonment which might be awarded under section 64 as amended, would be without limit. The Government of India are therefore still of opinion that there is no necessity to make the changes recommended by the Resident.

3. A copy of the Penal Code Amendment Act is herewith submitted and Section 64 of the Penal Code as now amended is quoted in the margin for ready reference.

4. Under Section 64 a Criminal Court is empowered to impose a sentence of imprisonment in default of payment of fine for an offence under the Municipal

64. In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine whether or without imprisonment, and in every case of an offence punishable with imprisonment or fine or in which the offender is sentenced to imprisonment only or to imprisonment and fine, it shall be competent to the Court which sentences such offender to direct in the sentence that in default of payment of the fine the offender shall undergo imprisonment for a certain term, which imprisonment shall be in addition to any other imprisonment to which he may have been sentenced, or to which he may be liable under a commutation of a sentence.

Regulations punishable with fine or
because by Section 2 of the Amend
= ment Act the word "offence" a
S. 64 is made to include offence
under Special and Local Laws.
But what is to be the limit of
this imprisonment in regard
offences of the kind under
Special or local laws is not
laid down, because S. 67 whi
lays down a scale for the ki
of imprisonment, has not be
by the Amendment Act, made
applicable to offences unde
special or local laws. The
Court of India say that the
term "offence" in S. 67 would
doubtless, looking to the contex
be construed in the enlarged
sense because, otherwise, there
would be no limit to the perio
of imprisonment which may
be awarded under S. 64 - It
is indeed very probable that
Magistrates would as a guide
take the
scale of imprisonment
laid down in S. 67, as a matte
of convenience, in the
absence of anything more

authoritative, but it is questionable whether they are bound to follow that scale - in the face of Sec: 40 which lays down in its second clause that in Chapter IV and in Sections 64, 65, 66, 109 & seq (and in no others) the word offence denotes a thing punishable under any special or local law, it cannot, in my humble opinion, be said that in S. 67 the word "offence" bears the meaning above given

N.B. However, as the Government of India have now given a final reply on the subject in question under disposal, the Presidency Municipal Commissioner must now be informed of it. May he be informed that the Government of India are of opinion that Act VIII of 1882 will be found to provide all that is required to meet the difficulty noticed in

their correspondence – It seems unnecessary to communicate to the President the construction of S. 67 given in the latest letter from Government.

K.L. 27.9.82

P.S. Better let him have copy of correspondence to make what he can of it

In the meantime the Govt of India have not extended the New Code or P. Code Amendment Act, as they were asked to do, into Travancore. Better ask their attention to my letter.

JD 28/9

1 N. 16

24 In letter N. 946 of the 31. October 1892 from the President, the Commissioners propose an amendment in municipal bye-law N. 57 disallowing vagrant beggars from importuning for alms in public thoroughfares.

S. 16. A

25 The Dy. Supte of Police's letter in this point is very clear, and shows the desirability of the proposed amendment. As the bye-law now stands, the breach of that bye-law is punishable with simple imprisonment for four days but this punishment is not possible as it is inconsistent with Sec: 224 of the Regulations which provides that the penalty for an infringement of the bye-laws shall be a fine not exceeding Rs 20/.

26 It is true that a fine cannot be recovered from a beggar but the Magistrate is competent to remand

imprisonment in default of payment of fine imposed under a Municipal bye-law.

27 The present proposal to alter the penalty of imprisonment to that of fine is necessary & may therefore be approved.

Draft sanctioning submitted for approval.

H.
5-11-97

Letter issued - Ce. N. 17.

—

28 On Se. N. 17, the President of the Municipality was informed that the Resident had no objection to the proposed amendment in bye-law No 57 being published in the manner prescribed in Sec: 226 of the Bangalore Municipal Regulations - This was in November 1892. The President now states, in letter No. 5079 dated the 23rd March 1897, that the amended bye-law was published in the local papers at the time, but that through an oversight in his Office, the same was not sent up

S. 18

to

to the Resident for confirmation. It is now requested that the amendment be confirmed to enable the President to follow the procedure laid down in Sec: 227 of the Municipal Regulations.

29. The amended bye-law has no effect at present since it has not been confirmed. The procedure laid down in Sec: 226 of the Regulations having been complied with, the amendment may be now confirmed, but the amendment was brought to the notice of the public five years ago, when it was published in the papers.

30. Perhaps the procedure in Sec 226 maybe complied with again; this seems to be necessary as the amended bye-law ~~needs~~. Sl. No. 16 C needs an alteration. The words "of the Cantonment" may be changed to "of the Station" or perhaps be omitted altogether. The penalty shown in page 3 of against Sec: 57 should also be altered to "Twenty rupees".

Submitted.

AJ.
26.3.97

31. Perhaps looking to the long period that has

elapsed since the proposed Bye-Laws was published under Sec 226 you would prefer republication - If so the opportunity might be taken of altering "Cantonment" into C + M. Station

KSE. 2/4
29-3.

Rec'd at Meerut on 3rd April

Draft submitted for approval
AL 6-4-97

KSE 7-4.

Letter issued - See N. 19.

32. With letter N. 939 of the 15th May 1897, the President Municipal Commission, forwards for the Resident's confirmation the amendment in Bye-law No. 57 which has been republished in the manner directed in See N. 19. D. 20

33. The formalities required by Sec: 226 of the Municl Regulations having again been complied with, & the amendment having initially been accepted five years ago (P. 17), it may now be confirmed. Draft prepared for favour of approval. Re:

HS. 19-5-97.

May be confirmed
Rec'd 21/V

34 Before confirming plaint Magistrate should ascertain whether complainant is willing to be bound over to prosecute & if not whether he desires to withdraw complaint - If complainant refuses to be bound over Magistrate should inform him that Police will be directed to investigate the charge & if he refuses to give information which leads to conviction he may possibly be sentenced to imprisonment with hard labour - Should it subsequently appear that complainant has made false charge he may be prosecuted himself for giving false information

UR

orly
23/V

draft
25/V

Sept submitted for approval.

A.S.
25-5-97

25/V.

Letter issued — see No. 21

22

35. With reference to the President's observation in para 34 of note, the President, Municipal Commissioner, Corporation, has consulted the District Superintendent of Police, who proposes that the amendment in bye-law 57 as passed by the Commissioners be revised to accord with the wording of Sec: 71, para XXI of the Madras City Police Act. It runs as follows:—

71. Whoever in any public street, road, thoroughfare or places of public resort commits any of the following offences shall be liable on conviction to fine not exceeding fifty rupees, or to imprisonment which may extend to one month."

"XXI Whoever begs, or applies for alms, or exposes or exhibits any sore, wounds, bodily ailment or deformity with the object of exciting charity or of extorting alms"

Mr. Hewetson observes that the first underlined should be cut out unless the new Municipal law has a provision for imprisonment

36. Mr. Slight agrees with Mr. Hewetson but he remarks that he is not aware of any provision in the new law which authorises the Commissioner to frame a bye-law on the subject under reference.

37. The provision in the Madras City Police Act makes no exception in the case of the religious

religious class of mendicants. The existing bye-law of the C & M Station exempts such class of mendicants.

38. The President appears to be correct in his statement that there is no provision in the new municipal law which authorises the framing of the bye-laws under notice. Section 137 of the law deals with power to make bye-laws, & under clause (b), the Commissioners may, by bye-laws, generally provide for carrying out the objects & purposes of the law, but the removal of the beggar nuisance does not, it is submitted, come within the scope of the law. It thus appears as if no new bye-laws can be framed in this direction. We have, however, a bye-law on the subject included in the municipal bye-laws, and it is submitted that its validity is not affected by the new municipal law under section 2 (1) of that law. In such circumstances,

* N-57

it

It is submitted that no amendment can now be made in Bye-Law No 57, if it be intended to preserve the operation of that Bye-Law.

39. There is nothing in the Police Act V of 1861 as amended by Act VIII of 1895 relating to the beggar nuisance.

Submitted.

A.S.(G)
10-7-97 11-7-97

with Judl Registrar's opinion noted on this point.

Jml.
13/VII

40

41 The Presidents' view that the Bye-Law under consideration is unauthorized by the provisions of the Municl Law, 1897 seems to be correct. The Bye-Law deals with a subject which is not within the purview of a Municl Law. Under sec. 224 of the Regn the commr could frame Bye-Laws for preserving order and cleanliness in the Station. Unless the section is so construed as to include the beggar nuisance within its scope, there is no authority in the Regn either for framing a Bye-Law of the kind in qn. Sec. 413 (n) of the Madras Municl Act, I of 1884 authorizes the

Commr

(Continuation of Note or Precis).

Commrs of that town to make bye-laws providing for the securing of cleanliness, safety, and order in the streets and other public places. If this provision was considered as sufficient to enable the Madras Municipality to remove by bye-law the beggar nuisance, there was no necessity for making an express provision on the subject in Sec. 71 clause XXI of the Madras City Police Act, III of 1888. The bye-law in question seems to be ultra vires both under the Local Law, 1897 and the Local Regn of 1883 - and had better be expunged. In connection with a proposal made by the Municipality in 1871 to amend this bye-law the President was asked to state the authority under which the bye-law existed; in his reply the President did not give a direct answer to the question asked but confined himself chiefly to the penal provision of the bye-law, and the question of the legality of the bye-law as a whole does not seem to have been raised and discussed since

× 5 L 2

5 L 3

42. Even assuming that the Regn of 1863 gave the Comm power to continue the bye-law, it can no longer be enforced. Sec. 2 (2) of the Immd Law, 1897, does not keep in force any bye-law that would be inconsistent with its provisions or unauthorized by it. If the bye-law is ultra vires, as it seems to be, under the new law, it has ceased to have any legal force, and should be expunged

43. The proper place for a provision of the kind contained in the bye-law would be in the Police Act; but the Police Act V of 1861, contains no such provision

A.L.E.
15.VII.97.

Ins: Regulation
Planning this act with a copy of the new Immd. law.
Jml
22/VII

44 Kem: certainly observe no provision in the New Immd. Law by wh. a bye law can be made with regard to vagrants & mendicants. Capt: Erskine has drawn & Kem: has carefully Examined the New Law - & may have some suggestion to make at this time I think await his return Jml 22/VII

(Continuation of Note or Precis).

45. Let me see the New Law again – So far as I remember I am inclined to agree with the view taken in above note.

KSE 31-7.

46 Copy of the New Law put up below.

31.8.

47. I am of the same opinion as the Judl. Registrar and I do not see how the proposed rule can come in.

KDS 3/8

Regr

I agree. When the Law comes to be framed I am unable to suppose it

AK

4/8 KDS 4/8

Off: Rebd: for appl.

Revised draft subd

6/8/97 A! 7-8-97 KDS 9-8